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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Chrono

April 26, 1984

OLL #
84-1861

LEGISLATIVE REFERRAL MEMORANDUM

TO: LEGISLATIVE LIAISON OFFICER

SECRET

SEE DISTRIBUTION LIST

SUBJECT: Agency draft reports from State, NASA, GSA, Treasury, NSF, Agriculture, Defense and HHS and S. 2127, the "Federal Advisory Committee Act Amendments of 1983"

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please provide us with your views no later than

Tuesday, May 15, 1984.

Direct your questions to Branden Blum (395-3802), the legislative attorney in this office.


James C. Murr for
Assistant Director for
Legislative Reference

Enclosure

cc: F. Reeder
R. Landis
N. Noonan

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United States Postal Service
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Smithsonian Institution
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Department of the Treasury
Veterans Administration

Dear Mr. Chairman:

We have carefully reviewed S.2127, entitled the "Federal Advisory Committee Act Amendments of 1983," as you requested in a December 21, 1983 letter to Secretary Shultz.

The proposed amendments in large part appear to have been published previously in the Federal Register, Part V, of April 28, 1983, by the General Services Administration as interim regulations on "Federal Advisory Committee Management." It is our considered opinion that ~~the management and administrative minutiae of~~ these interim regulations do not enhance the present Federal Advisory Committee Act, as amended (5 U.S.C. App.1). Therefore, we cannot endorse S. 2127.

The State Department's experience in implementing the Advisory Committee Act has been positive. The intent of the legislation has been clear and its benefits highly appreciated by this Department. The advisory committees have provided us with a breadth of viewpoints and a depth of technical expertise not otherwise easily available or affordable.

Initially under OMB and subsequently under GSA administration, the Act has been carried out under general guidelines which allowed each agency to adapt its procedures to widely varying needs dictated by the substantive focus of each committee and agency objectives in sponsoring these groups. The guidelines were also flexible enough to accommodate Presidential and Congressionally mandated Advisory Committees.

While some of the language in S.2127 merely restates provisions already in the Act, the added sections, in our view, appear to seek more restrictive guidelines that would impair rather than improve operation of the Act. These added sections have been the subject of debate for the past two years as successive drafts of GSA's proposed interim regulations were circulated to the agencies for comment. *Given GSA's authority to establish administratively advisory committee management guidelines, the State Dept. believes this legislation is unnecessary.*

The State Department has opposed specific provisions of the interim rule as being unnecessary and costly. For example, the requirement that membership lists be updated quarterly requires additional staff time and paperwork

The Honorable
William V. Roth, Jr., Chairman,
Committee on Governmental Affairs,
United States Senate.

Codifying the interim rulemaking will not increase effectiveness but will make amendments more difficult to achieve.

WASH

Washington, D.C. 20520

disproportionate to any expected utility. We estimate that this quarterly report will cost \$4,000 - 6,000 a year in pro-rated staff salaries to implement. Our experience with Congressional and public inquiries about committee membership suggests that they are directed toward a specific committee or agency. They are not general or frequent enough to justify the added expense of a large government-wide central file. Moreover, these lists are perishable (resignations, transfers, etc.) so that even a quarterly report is soon out of date. Individual agencies, assisted by their own new automated office machines, are better suited to handle membership inquiries promptly and accurately.

While current responsibilities of agency heads under the current Act are necessary and useful, the new discretionary sections are objectionable because they are not cost-effective:

- A well-written committee charter is available to committee members to provide a statement of purpose, objectives and expected accomplishments thereby making a separate statement redundant.
- Since a committee's size is determined by its purpose and objectives, setting arbitrary suggested ceilings is not helpful.
- Periodic reviews of committee expenditures are already required under current reporting procedures.

We believe that provisions covering the day-to-day operating details of Advisory Committee work are unsuitable for interim regulations and will reduce efficiency if enacted as statutory law. The more flexible terms of the present Act are working well for the Department.

The State Department is only marginally affected by the new prohibitions on compensation for public members of Advisory Committees because traditionally it has not normally made such payments. Nonetheless, we believe that compensation should be an agency prerogative. Agency budget restrictions work effectively to restrain committee expenditures. We are not persuaded that hiring consultants is a feasible and less expensive alternative to present practices.

In contrast to the larger Federal agencies, the State Department's Advisory Committee program is managed with part-time staff both at the committee level and in central management. We must constantly balance the use of staff resources as between full-time substantive foreign policy responsibilities and part-time committee management. We are concerned that adding non-essential administrative detail to the operation of the Advisory Committees will adversely affect the program in terms of cost, efficiency, and flexibility.

For these reasons, we recommend that the Senate Committee on Governmental Affairs not endorse S.2127.

Sincerely,

**W. Tapley Bennett, Jr.
Assistant Secretary
Legislative and Intergovernmental Affairs**

NASADRAFT REPORT ON S. 2127

C:KHS:Cl2266f

Honorable William V. Roth, Jr.
Chairman
Committee on Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This is in further response to your request for the comments of the National Aeronautics and Space Administration on the bill S. 2127, the "Federal Advisory Committee Act Amendments of 1983."

The bill would enact into statute policy considerations for the creation of advisory committees, compensation limitations for committee members and staff, responsibilities of agency heads and committee management officers, further requirements for establishment of committees and publication of materials, committee procedures and officials' duties, certain reports, and termination and renewal procedures related to advisory committees.

Most of these provisions would codify administrative and procedural

requirements ^{contained in the General Services Administration's (GSA) interim rule on Federal Advisory} ~~previously established by GSA Circular A-63.~~ NASA questions

the need for statutory enactment of these administrative procedures and ^{bill's intent is more appropriately addressed through administrative} believes that the ~~requirements in the bill will be more appropriately~~ ^{rulemaking authority.}

~~covered by the proposed regulation of the General Services Administration~~

~~replacing GSA Circular A-63 and implementing the Federal Advisory~~

~~Committee Act.~~

Furthermore, we have a number of concerns about ^{specific} certain provisions ~~of the~~ ^{contained in both S. 2127 as well as the GSA interim rule.} ~~bill which could be deleterious to NASA.~~

Federal Advisory
Committee
Management
148 FR 19324
April 28, 1983

of the bill, which would further restrict the establishment of new advisory committees;
~~We note that in section 101(a), the proposed language "and only when the information to be obtained is not already available through another advisory committee or source within the Federal government" would place an extraordinary burden on each agency to be aware of~~^{the ongoing activities of all}~~what every other advisory committee in the Federal government is doing and of all sources within the Federal government that could provide the information.]~~ We believe this type of burden is unrealistic.

Section 102, which relates to additional compensation limitations, is of concern because it would allow the agency head to compensate advisory committee members only in the exceptional case where the need for technical expertise or the requirement for balanced membership could not be met through the appointment of noncompensated members. These are extremely limiting exceptions. Although NASA, basically, does not pay its advisory committee members, there are certain NASA advisory committees, which we refer to as peer review groups, whose members are compensated. ~~[These compensated advisory committee members are appointed as experts rather than consultants because they are performing services essential to the NASA mission, rather than advising NASA as our consultants do.]~~ These people are highly respected scientists and members of the academic community ^{whose contributions are essential to the NASA mission, and we} ~~expert in very esoteric fields who evaluate~~ ^{believe that their compensation should be an agency prerogative.} ~~proposals made to NASA as a result of NASA Announcements of Opportunities, and are being asked to give their time in very arduous labor. It would be extremely difficult for NASA to justify payment for this very small group (in 1982, 33 out of 231 special government employees) under the criteria set forth in the proposed bill. It would be even more difficult to carry out our mission without their essential contributions.]~~

Additionally, we are concerned about the requirements under section 102~~(3)(C)~~ regarding ^{compensation of committee} staff members. ^{At NASA,} Staff members of advisory committees ~~at NASA~~ are full-time Federal employees, and the work that they do in supporting an advisory committee is generally one task among many that they perform. Therefore, their grade is not determined by the fact that they are staff members of advisory committees, but is determined by their overall positions and other duties in the agency. To require that the agency head review, annually, their grades because of added duties as staff members of advisory committees would be creating, at least in NASA, paperwork that is entirely unnecessary.

We further note with concern that in section 105(d) the chairperson of an advisory committee, who ^{, at most agencies,} in all probability would not be a full-time government employee, is given the responsibilities of the agency head as specified in section 8(a)(1) (A), (C), (D), (G), (H), and (J) of the Federal Advisory Committee Act. We find it anomalous that a chairperson of an advisory committee should be filing the charter and required documents and publishing required notices in the Federal Register. These responsibilities, in our opinion, should be placed with a lower level agency employee. It is our understanding that in most agencies, it is the Committee Management Officer who attends to the details of ensuring that the advisory committees are correctly run, and therefore we recommend that such an officer be made responsible for publishing Federal Register notices, ensuring that charters are filed, and that all steps are taken to comply with the law. We do agree that certain responsibilities should remain with the agency head, such as the determination that an advisory committee is necessary in the public interest.

For these reasons, we recommend that this bill not be enacted.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report to the Congress.

Sincerely,

Honorable William V. Roth, Jr.
Chairman
Committee on Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Your Committee requested the views of the General Services Administration (GSA) on S. 2127, a bill entitled "The Federal Advisory Committee Act Amendments of 1983."

In his remarks accompanying the introduction of this legislation, Senator Nickles has proposed to codify into the Federal Advisory Committee Act (FACA), as amended, the President's policy on voluntarism, and the program initiatives of the General Services Administration to improve committee management and efficiency which are contained in the GSA interim rule on Federal Advisory Committee Management (48 FR 19324; April 28, 1983). ~~While the Senator has expressed the view that GSA has full authority to establish and implement the program objectives contained in the interim rule, he believes they should be given greater permanence by incorporating them into FACA. Passage of this bill will not increase paper work or regulatory burdens since the changes would be made administratively through GSA's regulation even if S. 2127 were not enacted.~~

As stated by
in his introductory
remarks,

~~GSA supports this legislation, with the suggestion that consideration be given to the minor changes that are presently being considered and which may be incorporated into the language of the final rule on committee management to be issued in the near future. GSA will be pleased to furnish your Committee with a copy of the final rule as soon as it is issued, and to provide such additional information or comment on this legislation as may be requested at that time.~~

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report to your Committee.

Sincerely,

① The impact of the interim rule is being reviewed, and changes may be incorporated in the final rulemaking. With regulations, such changes are possible; however, laws are much more difficult to amend and we do not feel that legislating the requirements will significantly increase their effectiveness. Therefore, at the present time, we do not support enactment of S. 2127.



DEPARTMENT OF THE TREASURY
OFFICE OF THE GENERAL COUNSEL
WASHINGTON, D.C. 20220

Dear Mr. Chairman:

This letter is in response to your request for the views of this Department on S. 2127, a bill entitled the "Federal Advisory Committee Act Amendments of 1983."

S. 2127 would amend the Federal Advisory Committee Act (hereinafter FACA) to reduce the costs of compensating advisory committee members, and tighten restrictions on hiring consultants, creating committees, and holding closed meetings.

This Department has no objection to the broad purposes of the proposed bill. However, we question whether it is necessary or desirable to set forth in the statute in such detail material that encompasses administrative and management procedures as well as policies. In our opinion, the amendments proposed by the bill should focus on major policy issues which have presented problems in the past, such as the general prohibition against member compensation and stricter procedures regarding the creation of the committees.

It is our understanding that General Services Administration final regulations relating to Federal advisory committees are now being processed. We would suggest that enactment of the proposed bill be coordinated with the promulgation of the proposed regulations to promote consistency and avoid duplication and possible conflicts.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

Deputy General Counsel

The Honorable
William V. Roth, Jr.
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510



OFFICE OF THE
GENERAL COUNSEL

Honorable William V. Roth, Jr.
Chairman, Committee on
Governmental Affairs
U. S. Senate
Washington, DC 20510

Dear Mr. Chairman:

Thank you for asking the views of the National Science Foundation on S. 2127, the "Federal Advisory Committee Act Amendments of 1983".

The bill would add new subsections and paragraphs to various sections of the Advisory Committee Act based on language in recent GSA interim rules. (41 CFR Part 101-6, 48 Fed. Reg. 19324, Apr. 28, 1983) To the extent these rules reflect existing requirements of the Act, adding them again to the law would cause redundancy. Legislation confirming GSA interpretations that have been or seem likely to be contested would make sense, but many of the proposed changes do not seem to fall in that category. Unless a clear purpose has been demonstrated for incorporating them into the law, we would not do so. They would make the law harder to understand and hence to observe, and they would rigidify the legal regime affecting advisory committees by freezing minor implementations into statute.

The bill would codify one provision of the GSA interim rules that has been contested as both unwise and beyond GSA's current authority. This is the provision (41 CFR §101-6-1033) in the GSA interim regulations, section 102 of S. 2127) that would prohibit compensation of advisory committee members unless the agency head finds compensation essential to obtain technical expertise or balanced membership.

The Department of Justice is currently considering whether GSA has authority thus to prohibit compensation of advisory committee members. If Justice should rule in GSA's favor, legislation would be unnecessary.

The wisdom of a rigid rule that proscribes any compensation for advisory committee members seems questionable in any event. At present many advisory committee members do serve without compensation and most serve for amounts well below what outside consultants of comparable expertise -- often the same people -- can command from private companies. An argument can be

- 2 -

made that the Government is not a charity, so that asking citizens to serve it for nothing is unprofessional and unbusinesslike. - On the other hand, an argument can also be made that service for one's Government is an honor and a patriotic duty for a which a citizen should not have to be compensated.

We see some point to both these arguments. In the end, we think that whether advisory committee members should be compensated, and if so, at what level, is a pragmatic question. The answer ought to depend on the circumstances and on what is necessary to obtain good advice at low cost.

We would point out that agencies are not faced with situations in which they either can or cannot "meet the need for technical expertise or the requirement for balanced membership solely through the appointment of noncompensated members". In truth, of course, potential members do not either absolutely possess or absolutely lack technical expertise; they are more or less expert. Nor is membership either absolutely balanced or absolutely unbalanced, it is more or less balanced. Thus the rate we pay (and whether we pay) affects the quality of advisory committees, not whether we can constitute them at all.

It also affects the quality of members' commitment to the work of the advisory committees. The NSF, for example, pays advisory committee members nothing like the consulting fees they could command in the private sector. Yet paying them something, typically \$100 a day in our case, can influence the sense of responsibility for performance that they bring to committees on which they serve. Particularly considering that we ask for much advance preparation -- reading and evaluation of lengthy grant proposals, for example -- this can have real importance for the effectiveness of our advisory committees.

Whether advisory committee members should be compensated and at what level seems to us, therefore, not a matter of iron principle, but of pragmatic management. The amounts involved are, of course, minuscule in comparison with the amounts being spent on the programs about which the committee members are advising. Why should not decisions on this relatively peripheral matter be left to the managers of those programs? It is not only managers in the private sector who need to be shielded from excessive centralized Government regulation.

On the whole, therefore, we question the need for the proposed legislation in its current form. We especially doubt the wisdom of legislating a strict no-compensation rule for advisory committee members. It may be, on the other hand, that some of the specific provisions would confirm wise GSA interpretations of the Act that otherwise are open to question.

As indicated above we believe that the proposed legislation would impose a further regulatory burden on affected Federal agencies, restricting their managerial flexibility. We would not anticipate any substantial addition to paperwork burdens associated with the Federal Advisory Committee Act. Though those are significant, nothing new would be added not already required by the GSA regulations.

The Office of Management and Budget has advised us that ~~this report is consistent with the Administration's objectives~~
~~Thank you again for asking our views.~~

there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Charles H. Herz
General Counsel



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

Honorable William V. Roth, Jr.
Chairman, Committee on Government Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in reply to your request of December 21, 1983, for comments on S. 2127, a bill entitled, "Federal Advisory Committee Act Amendments of 1983."

The Department recommends against enactment of this bill.

The bill basically duplicates the interim regulations recently published by the Committee Management Secretariat of the General Services Administration. We believe the regulatory process is a more appropriate mechanism for guiding the day-to-day operation of the advisory committee program. If this bill is enacted we suggest the following changes be considered:

Section 102

Section 102 would amend section 7(d) of the Federal Advisory Committee Act by adding new paragraphs (3)(A) through (3)(D). Paragraph (3)(A) would prohibit compensation for advisory committee members for their service on advisory committees but would allow contract services of specific consultants. We recognize that for some agencies compensation represents a large percentage of committee expenses. The Department of Agriculture, however, pays compensation to members of only one of its eighty-seven committees. This committee is unique within the Department in that members spend a considerable amount of time prior to committee meetings in reviewing the numerous research proposals which are submitted to the Department for funding. We believe it should be an agency responsibility to determine, on a case-by-case basis, whether or not compensation is warranted.

Paragraph (3)(C) would fix the pay of a committee staff member at no higher than the GS-15 level. Paragraph (1)(A) should also be amended to reflect this lower grade.

In paragraph (3)(C)(ii), it appears that a word has been omitted. We suggest the first sentence be revised to read, in pertinent part, ". . . shall serve with the knowledge . . ."

Section 103

Section 103 would amend section 8 of the Federal Advisory Committee Act by adding new subsections (a)(1) and (a)(2), and (b)(3) through (b)(6). In the second sentence of subsection (a)(2)(B), it also appears that a word was omitted. We suggest it should read, in pertinent part, ". . . to determine whether improvement or corrective action . . ."

Section 104

Section 104 would amend section 9 of the Federal Advisory Committee Act by adding new subsections (d) through (f). Subsection (d)(1) refers to ". . . paragraph (C) below . . ." We believe the reference should be ". . . subsection (c) above . . ."

Subsection (d)(3)(B) is entitled, "Subcommittee Meetings." Most of the material under the heading, however, relates to the consultation process of subsection (d)(3)(A).

Section 105

Section 105 would amend section 10 of the Federal Advisory Committee Act by adding a new subsection (g). Subsection (g) would require the chairperson of a committee to do a number of things normally done by the agency head. If this subsection is intended for independent Presidential advisory committees, a distinction should be made. The Department has a number of committees chaired by citizens. We believe it would be inappropriate for those individuals to perform the functions identified. It is also suggested that the words ". . . and this regulation . . ." be deleted from the first sentence.

Inasmuch as this proposal requires no recordkeeping or reporting that is not already a part of the advisory committee process, we anticipate no increased paperwork or regulatory burden.

Thank you for giving us an opportunity to comment on this bill.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,



WASHINGTON, D.C. 20301

Senator William V. Roth, Jr.
Chairman, Committee on Governmental
Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Reference is made to your request for the views of the Department of Defense on S. 2127, 98th congress, a bill, "Federal Advisory Committee Act Amendments of 1983."

The Department of Defense is opposed to enactment of S. 2127 for the reasons set out below.

Section 102 of the proposed bill would prohibit compensation of advisory committee members (unless specifically required by law). The sole exception would be in "the exceptional case where an agency head is unable to meet the need for technical expertise or the requirement for balanced membership solely through the appointment of non-compensated members." Historically, the Department of Defense has compensated approximately one-third of its advisory committee members, including some whose compensation is set by legislation. Our committee managers believe that a blanket prohibition against compensating advisory committee members will degrade the quality of advice received from advisory committees by reducing the total universe of qualified members, and will inhibit our efforts to achieve balanced membership. Encouraging advisory committee members to serve without compensation is a worthy goal and should be encouraged. It is common practice now within the Department of defense, as part of the appointment procedure, to request advisory committee members to serve without compensation. However, prohibiting compensation, while providing for exceptions, detracts from our program, provides no benefits and adds more paperwork.

Section 103 paragraph (d) would "limit membership on advisory committees to twenty-five members for committees with an agency-wide mission and twelve members for committees with a more narrowly defined function or specialized areas of interest." An agency head could "authorize additional members for a committee when the agency head determines that such additional members are necessary to the function of the committee or to achieve balanced membership." While most Department of Defense advisory committees function well with a handful of members, meeting two

or three times a year, others have more complex missions. For example, the Defense Science Board, and its subcommittees, held 49 meetings during Fiscal Year 1983. They focused on such diverse subjects as the "Application of High Technology to Ground Operations," "International Industry to Industry Arms cooperation," and "Long Endurance Aircraft," among many others. Obviously, one group limited to 25 members could not begin to provide the expertise and balance required by such varied subjects.

As another example, the U.S. Air Force Scientific Advisory board is the Air Force's major link with the civilian technical community and is used to advise on the application of technologies across the full spectrum of scientific disciplines. Even if membership were limited to advisors expert in only the most fundamental of these disciplines, it could not be done with a committee limited to 25 members. Further, the need to maintain balanced membership and to ensure that divergent views are adequately represented would be hindered by the membership limitation.

The Department of Defense believes that limiting membership size would restrict the usefulness of committees by unduly limiting the number of participants. We realize that the proposed bill provides that the Agency Head may authorize additional members. As in section 102, however, this section established a restriction, then provides for exceptions. Again, it provides no benefits for our program and adds more paperwork (justifying and approving exceptions).

Section 106 provides that, among other things, "The membership list for each advisory committee shall be updated quarterly with notification furnished to GSA of all new vacancies and appointments during the period." This requirement is of major concern to the Department of Defense committee managers. As is the case with some other departments and agencies the Department of Defense committee management function is decentralized. Each committee maintains its own records, including membership lists. We do not maintain a central list of members, nor have we ever had need for one. For many years we have been able to satisfy White House, Congressional, and all other requests for membership data by providing copies of the membership list included with the most recent annual report. Our committee managers, most of whom manage advisory committees as an additional duty, are seriously concerned about the additional workload generated by this requirement. Reviewing and revising a list of committee members four times a year will obviously take more time and paper than preparing a list once a year. We strongly believe that preparing a quarterly updated listing of advisory committee members is burdensome and unnecessary, particularly in an administration that is pledged to reducing paperwork.

Other sections of the proposed bill are redundant. For example, section 101 paragraph (d) of the proposed bill repeats what is now included in section 10(a)(1) and section 10(d) of the Federal Advisory Committee Act; section 103(a)(1) reiterates existing or proposed requirements; and section 104 of the bill refers to "the Administration" which is nowhere defined.

In summary, the Department of defense believes that the proposed bill would restrict and impede our ability to obtain the best available advice, achieve balanced membership, focus on the myriad technical and scientific problems inherent in national defense, and increase paperwork without providing offsetting savings or benefits.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report ~~of~~ ^{for} the consideration of the Committee.

Sincerely,

William H. Taft, IV



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

DRAFT

The Honorable William V. Roth, Jr.
Chairman, Senate Governmental
Affairs Committee
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request for a report on S. 2127, a bill entitled the "Federal Advisory Committee Act Amendments of 1983".

In summary, we are in agreement with the intent of the bill to improve management and accountability of Federal advisory committees. We oppose some items in the bill as noted below. The common theme appears to be to establish increased opportunity for agency heads to make judgments about committee size, composition, cost and accountability; and facilitate the General Services Administration's (GSA) oversight of this process.

The major items added to the Federal Advisory Committee Act by S. 2127 are: (1) elimination of compensation for committee members except where required by law; (2) limitation of membership on advisory committees to 25 for committees with an agency-wide mission and 12 for committees with a more narrowly defined function or specialized area of interest; (3) centralization of committee records management within an agency; (4) GSA authority to concur, nonconcur, or provide a status report regarding an agency proposal to establish, reestablish, or renew a committee; (5) the requirement of a separate charter for a subcommittee which has functions other than or different from the parent committee, is independent of the parent committee, or has members other than those of the parent committee and; (6) a quarterly report requirement from each agency to GSA updating the committee membership list concerning new vacancies and appointments.

We oppose three of the six major items of the bill because we do not believe they agree with the common theme: (1) disallowing compensation for advisory committee members unless specifically required by law; (2) stipulating that records management be carried out in a single location within an agency, with particular reference to maintaining a complete set of charters and membership lists and (3) granting the Administrator of GSA authority to concur, nonconcur, or provide a status report to the agency head who proposes to establish, reestablish or renew a committee.

Page 2 - The Honorable William V. Roth, Jr.

The following information supports the above points of disagreement:

1. To statutorily eliminate compensation for members unless a law requires it limits the agency heads' prerogatives to compensate members and their ability to manage their programs in the most effective manner. The elimination of pay will interfere with our ability to attract young people to serve on committees, since many of them cannot afford to serve without pay. Committee members already contribute, without pay, the approximately three weeks per year per member required for preparation and study for the meetings. All in all, this is a tremendous bargain for the Government.

Compensation to committee members approximates only nine percent (\$3 million) of our average annual cost for committee operations (\$33 million). About 80 percent of the Department's committee members are paid only \$100 per day as compared to the current maximum amount of \$245 per day (rate specified for a GS-18) authorized by Section 7(d)(1)(A) of the Federal Advisory Committee Act. In our view, this is responsible use of compensation authority.

2. We do not believe legislation should mandate how an agency keeps its committee files. For agencies with a large number of committees and/or numerous geographic locations, it could be counter-productive to efficient and effective committee operations and recordkeeping to maintain all records in a central location. The Department's system allows for some centralization of records, but we do not require that day-to-day records be maintained in a single location.
3. S. 2127 provides for the Administrator of GSA to concur, nonconcur, or furnish a status report concerning a proposal by an agency head to establish, or renew a committee.

The GSA "concurrence" or "nonconcurrence" provision is in conflict with the provisions of Section 9(a)(2) of the Federal Advisory Committee Act which is not proposed for change by S. 2127. This Section provides for "consultation" between the two parties concerned before the committee is established. We favor retaining the use of "consultation" over "concurrence or nonconcurrence", since the latter would shift the prerogative for establishment of committees from agency heads to GSA. It is also our view that the Administrator

Page 3 - The Honorable William V. Roth, Jr.

of GSA should furnish a status report on GSA review of the agency's charter proposal to the agency head by a specified time, e.g., 15 days, rather than have the matter be left open-ended.

We therefore recommend that the bill not be favorably considered.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Secretary